IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

Bail Appl..No. 4882 of 2007()

CRIME NO.598/07 OF KODUNGALLUR POLICE STATION

PETITIONER/ACCUSED

VELANDY, S/O.THAVETTY RAMAN, METHALA VILLAGE, KODUNGALLUR TALUK.

BY ADV. SRI.M.SHAJU PURUSHOTHAMAN
SRI.K.S.RAJESH

RESPONDENTS: COMPLAINANT

STATE OF KERALA REP.BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM REPRESENTING THE S.I.OF POLICE, KODUNGALLUR.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 4882 OF 2007

Dated this the 13th day of August, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations, inter alia, under Sec.420 of the IPC. A crime has been registered on the basis of a private complaint filed by the de facto complainant and referred to the police by the learned Magistrate under Sec.156(3) of the Cr.P.C. The crux of the allegations against the petitioner is that he fraudulently suppressed a charge relating to his property consequent to an attachment by the Family Court and induced the complainant to part with money. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. There was no wilful or fraudulent suppression of any vital fact. It had been revealed to the complainant that there was such an attachment.

Knowing fully well of the attachment, the complainant had taken the assignment of the property. In these circumstances, the petitioner may not be subjected to the undeserved trauma of arrest and detention. Anticipatory bail may be granted to the petitioner, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. There is absolutely nothing to indicate that there was no fraudulent suppression of the fact of attachment which the petitioner knew, submits the learned Public Prosecutor. The de facto complainant has been obliged to pay a huge amount of Rs.1,50,000/- to save his property from sale. In these circumstances, this is certainly not a fit case where anticipatory bail can be granted to the petitioner, submits learned Public Prosecutor.

4. I find merit in the opposition by the learned Public Prosecutor. In the facts and circumstances of this case, I am unable to perceive any features which would justify the issue of a direction under Sec.438 of the Cr.P.C. This, I am satisfied, is a fit case where the petitioner must resort to the ordinary and normal course of appearing before the Investigating Officer or the learned Magistrate having jurisdiction. He must then seek regular bail in the ordinary course.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge